

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1626 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT AYURVED UNIVERSITY

Versus

ASHWINKUMAR MAGANLAL KOLIDHOR

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Appearance:

MR HARIN P RAVAL for Petitioners

MR JV MEHTA for Respondent No. 1

Mr D P Joshi, AGP for Respondent No. 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/02/98

ORAL JUDGEMENT

Rule. Mr J U Mehta, learned Advocate waives service of Rule on behalf of respondent No.1. Name of respondent No.2 is deleted.

By the impugned order, the 7th Extra Asstt. Judge, Vadodara directed the University authority to

declare result of the plaintiff-respondent Ashwinkumar Kolidhor.

2. Plaintiff-respondent No.1 was not allowed to appear at the second year examination of Ayurvedacharya course. Thus, he filed a suit for declaration and injunction. The trial court directed, by interim order, to allow him to appear in the examination. However, there was no direction for declaration of result. The plaintiff again, approached the court seeking direction that the result may be declared. It is contended by Mr Harin Raval, learned Advocate for the petitioner that there is a 'Nil' attendance of the plaintiff-respondent for the session December 1996 to April, 1997. In view of this, the plaintiff has no prima facie case. This fact has been disputed by Mr J U Mehta, learned Advocate for the respondent No.1. Be that as it may, I am not entering into this controversy at this stage. The fact remains that the plaintiff has appeared in the examination in pursuance of the interim order passed by the trial court. In fact, the trial court ought not to have granted the interim relief permitting the plaintiff-respondent to appear in the examination unless there was a cast iron case in favour of the student. However, since he has been permitted to appear in the examination, as a natural consequence, the result should also be declared. However, the fact remains that if the student-respondent has not attended the classes, he could not have been permitted to appear in the examination. In view of the aforesaid, ends of justice would be met, if the order of the 7th Extra Asstt.Judge, Vadodara dated 27.8.1997 is modified. The petitioners are directed to declare the results of the plaintiff-respondent which shall be subject to the final decision of the suit. Since the controversy is only with respect to the attendance, the suit should be decided within one month. If the plaintiff has not attended the classes, he does not deserve any sort of sympathy. The moment it is found that he has not attended the classes, no equity will be considered in his favour on account of his appearing at the examination and declaration of the result in pursuance of the order of this Court. This Civil Revision Application is disposed of as indicated above. Rule discharged. Interim relief is vacated.

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msp.